

SOLICITATION, OFFER AND AWARD

1. Contract No.	2. Solicitation No. F98P160908	3. Type of Solicitation <input type="checkbox"/> Sealed Bid (IFB) <input type="checkbox"/> Negotiated (RFP)	4. Date Issued RFP: 1/27/98 Contract: See Box 23	5. RFP: Page 1 of _____ Contract: Page 1 of _____
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6. Issued By:

Fluor Daniel Fernald (FDF)
P. O. Box 538704
Cincinnati, OH 45253-8704

Acting under the U.S. Department of Energy
Contract No. DE-AC24-92OR21972

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder."

SOLICITATION

7. Sealed offers in original and _____ copies for furnishing the supplies or services in the Schedule will be received at the place and at the time specified in Section L. **CAUTION - LATE Submissions, Modifications, and Withdrawals - See Section L.** All offers are subject to all terms and conditions contained in this solicitation.

8. FOR INFORMATION CALL: ▶	A. NAME	B. TELEPHONE NO. (Include area code) <i>(No collect calls)</i>
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OFFER *(Must be fully completed by offeror)*

10. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days *(90 calendar days unless a different period is inserted by the offeror)* from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

11. DISCOUNT FOR PROMPT PAYMENT ▶	10 CALENDAR DAYS %	20 CALENDAR DAYS %	30 CALENDAR DAYS %	CALENDAR DAYS %
12. ACKNOWLEDGMENT OF AMENDMENTS <small>(The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated)</small>	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

13. NAME AND ADDRESS OF OFFEROR

14. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (TYPE OR PRINT)

15. TELEPHONE NO. <i>(Include area code)</i>	16. <input type="checkbox"/> CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE ENTER SUCH ADDRESS IN SCHEDULE	17. SIGNATURE	18. OFFER DATE
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AWARD *(To be completed by FDF)*

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	
21. NAME AND TITLE OF SIGNER	22. SIGNATURE	23. AWARD DATE

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS**B.1 SCOPE OF CONTRACT**

Seller shall furnish all personnel, facilities, equipment, material, supplies, and services except as may be expressly set forth in Section H, Special Requirements, of this contract and otherwise do all things necessary for, or incident to the performance of, providing auctioneering services and related support to FDF for the sale of Department of Energy (DOE) Government owned property as outlined in Section C, Statement of Work, dated 1/23/98.

B.2 PRICE

The gross revenue generated from each auction (after taxes), shall be divided between FDF and the Seller. The fixed percentages are as followings:

A. Base Year

	Percentage
FDF	_____ %
Auctioneer	_____ %
TOTAL	100%

B. Option Year 01

	Percentage
FDF	_____ %
Auctioneer	_____ %
TOTAL	100%

C. Option Year 02

	Percentage
FDF	_____ %
Auctioneer	_____ %
TOTAL	100%

B.3 TAXES

The Auctioneer is responsible for collection and payment of any and all taxes owed.

NOTE: All taxes are deducted from the gross revenue before percentages are distributed between FDF and the Auctioneer (as defined in B.3)

SECTION C - STATEMENT OF WORK

Auctioneering Services

January 23, 1998

C.1 GENERAL REQUIREMENTS FOR AUCTIONEER

- A. The Auctioneer is to provide labor, equipment, storage facilities, transportation of material to the storage facility, lotting, the actual auction, advertising and required summary report.
- B. The Auctioneer shall have two years previous experience and maintain a material and equipment bond of at least \$100,000 and will be supplied a copy with each year of service.
- C. All DOE government owned property is to be consigned to the Auctioneer to be sold "AS IS" and "WHERE IS", without any recourse against FDF. All property is without any warranty, guarantee or representation, expressed or implied, as to the quality, quantity, character, condition, weight, size or any kind of its fitness for use or purpose.
- D. The Auctioneer shall be held responsible for securing all FDF consigned property and shall reimburse FDF for any natural hazard (i.e., fire, theft, etc...) resulting in damage to or destruction. This would also include any form levy or attachment of any court process or lien thereon while in the Auctioneer's possession or until the proceeds of the sale have been accounted for and remitted to FDF.
- E. The Auctioneer is responsible for setting up the items for lotting. Consigned property for sale shall be assembled in reasonably sized lots of like or similar items by make or manufacturer. For example: 5 monitors of the same in one lot, an entire basket of misc. pipe in one lot or a plotter by itself.
- F. FDF reserves the right to approve or disapprove of the lotting. This may require adjustments by the Auctioneer prior to the sale. FDF also reserves the right to perform property inventory at anytime.
- G. FDF and/or DOE reserves the right to attend all auctions.

C.2 TRANSPORTATION AND STORAGE REQUIREMENTS

- A. The Auctioneer is responsible for moving items from FDF to a secured storage facility where it shall be stored until such time that an auction can be scheduled.

- B. FDF may assist with the loading of property at FDF facilities. FDF may also provide any heavy equipment necessary to help with loading larger items.
- C. The Auctioneer shall transport the items to its facility and unload the items at their own expense and risk.
- D. The Auctioneer is responsible for paying all expenses incident thereto, including carting, handling, storage, selling and transferring to customers, and all taxes and other charges assessed and levied on such property while in their possession.
- E. The auction and storage facility must be located within a 75 mile radius of Fernald Environmental Management Project (FEMP), due to the nature of the auction sales, the vicinity population centers, the amount of volume being moved, and the transportation of the consigned property.
- F. Storage requirements are in accordance with 41 CFR, 109-28.000, and 109-28.051 (Attachment I)

C.3 MATERIAL PROVIDED FOR SALE

- A. FDF will provide items for sale in the auction (e.g., industrial, plumbing, electrical, construction, laboratory, and office equipment).
- B. FDF will furnish baskets to hold miscellaneous smaller items. The baskets are not to be sold in the auction, and are to be returned to FDF after the auction. Return of these baskets must be coordinated with FDF Shipping and Receiving Department.

C.4 SALE REQUIREMENTS

- A. The Auctioneer shall remain accountable for the consigned property until the completion of the auction. This shall include a detailed summary report and a check made payable to FDF for their percentage of the revenue generated.
- B. The Auctioneer shall notify FDF a minimum of sixty (60) days prior to each scheduled auction date, allowing preparation, transportation and advertising.
- C. The Auctioneer shall provide FDF with a copy all forms of advertisements (i.e., newspaper copies, brochures, flyers, etc....) prior to a proposed auction date.
- D. FDF reserves the right to establish a minimum bid on certain items that are deemed valuable.

- E. The Auctioneer shall advertise in the local newspapers and/or trade journals.
- F. The Auctioneer shall allow a time for inspection and viewing of items to be sold in the auction. Such time should be a minimum of 7 or maximum of 21 calendar days. Whenever the inspection period is to be proposed less than 7 days, invitation for bids, flyers or other announcements shall be distributed to perspective bidders sufficiently in advance of the inspection period. (41 CFR 101-45.304-5, Attachment II)

Failure to inspect items for sale shall not constitute grounds for relief.

- G. The Auctioneer shall announce at the beginning of any sale and post the following information:
 - 1. "Employees of DOE and FDF shall be afforded the same opportunity to purchase Government-owned property as it is afforded the general public, provided the employees warrant in writing (a disclaimer) prior to the award that they have not either directly or indirectly:
 - 2. Participated in the determination to dispose of the property.
 - 3. Participated in the preparation of the property for sale.
 - 4. Participated in determining the method of the sale.
 - 5. Acquired information not otherwise available to the general public regarding usage, condition, quality, or value of the property."

AND

to be sold "AS IS" and "WHERE IS", without any recourse against FDF. All property is without any warranty, guarantee or representation, expressed or implied, as to the quality, quantity, character, condition, weight, size or any kind of its fitness for use or purpose.

- 6. A copy of the disclaimer statement is provided with the catalog list of items for sale. Any DOE or FDF employee who purchases an item at these sales, must sign and date the Disclaimer statement in accordance with 41 CFR 101-45.302 (Attachment III).

7. The auctioneer shall display a sign or placard at all sales designating the consigned property as belonging to DOE.
- H. The Auctioneer may include other property in an auction sale, but not co-mingled or placed in lots with DOE property without having prior approval from FDF.
- I. The Auctioneer shall submit payment of sales revenues to FDF, minus their percentage, and a detailed summary report within 10 working days.

The detailed summary report shall include the following information:

- a. Lot number(s), quantity, description, manufacturer (if applicable), successful bidder, sale price, a bidder's list and disclaimer statement if applicable (located in 7a, Attachment III). Attachment IV is an example of the report.
10. The Auctioneer shall use their best efforts to sell the consigned property and make no sale except in the ordinary course of business.
11. The Auctioneer shall not remove any of the consigned property from the facility without written consent by FDF prior to completion of the sale.

ATTACHMENT V**EXAMPLE OF REPORT**

Buyer	Lot	Qty	Description/Manufacturer	Price	Exten
Bidder #1	Lot #1	1	Computer, Compaq	100.00	100.00
Bidder #22	Lot #2	1	Computer, Compaq	75.00	75.00
Bidder #34	Lot #3	1	Plotter, HP	400.00	400.00
Bidder #23	Lot #4	5	Monitors	100.00	500.00
Bidder #101	Lot #5	1	Basket Misc. Piping	200.00	200.00
Bidder #10	Lot #6	2	Printers, Epson	100.00	200.00

EXAMPLE OF BIDDER LIST

Bidder #1 John Doe
 123 What St.
 Cincinnati, OH 45202

Bidder #2 Jayne Doe
 123 That St.
 Cincinnati, OH 45231

SECTION D - PACKAGING AND MARKING

D.1 PACKAGING

Packaging of materials or reports for mail or commercial transport shall be in compliance with all applicable Federal, state and local laws and regulations, and sound business practices.

D.2 MARKING

Each package, report or other deliverable shall be accompanied by a letter or other document which:

- A. Identifies the contract number under which the items are being delivered.
- B. Identifies the deliverable item number or report requirement which requires the delivered item(s).

SECTION E - INSPECTION AND ACCEPTANCE

E.1 INSPECTION OF SERVICES

Inspection of all services under this contract shall be accomplished by a duly authorized FDF representative in accordance with the FDF General Provision entitled "Inspection of Services -- Fixed-Price." All services may be subject to inspection and/or testing by FDF.

E.2 ACCEPTANCE OF SERVICES

Final acceptance of all services under this contract shall be considered upon the payment of a proper invoice submitted in accordance with the FDF General Provision entitled "Timely Payment."

SECTION F - DELIVERIES OR PERFORMANCE

F.1 TERM OF CONTRACT

The term of this contract shall be for one (1) year, after date of contract award, with two (2), one (1) year options to extend.

F.2 PRINCIPAL PLACE OF PERFORMANCE

The principal place of performance under this contract shall be the Seller's facility unless otherwise specified by FDF.

SECTION G - ADMINISTRATION DATA

G.1 CORRESPONDENCE PROCEDURES

To promote timely and effective administration, correspondence (except for invoices and reports) submitted under this contract shall be subject to the following procedures:

- A. Technical Correspondence. Technical correspondence (as used herein, excludes technical correspondence where patent or technical data issues are involved and correspondence which proposes or otherwise involves waivers, deviations, or modifications to the requirements, terms or conditions, of this agreement) shall be addressed to the FDF Technical Representative with copy to the FDF Contract Administrator. The mailing address is as follows:

To Be Determined

- B. Other Correspondence. All correspondence, other than technical correspondence, shall reference the contract number, and be addressed to the FDF Contract Administrator, with information copies of the correspondence to the FDF Technical Representative. The mailing address is as follows:

Fluor Daniel Fernald
175 Tri-County Parkway
Cincinnati, OH 45253-8704
Attn: Jennifer K. Waters
Telephone: (513) 648-6262
Fax: (513) 648-6380

G.2 INVOICING INSTRUCTIONS

Notwithstanding the FDF General Provision entitled "Delivery and Payment," FDF shall pay the Seller upon the submission of proper invoices, the prices stipulated in Section B of this contract for services and/or supplies rendered and accepted, less any deductions provided in this contract. Payment for work performed on this contract will be made on a unit price actual quantity basis. Invoices shall be sent in triplicate to the following address:

Fluor Daniel Fernald
P.O. Box 538704, Mail Stop #XX
Cincinnati, OH 45253-8704
Attn.: Jennifer K. Waters

SECTION H- SPECIAL REQUIREMENTS

H.1 CONTRACT ADMINISTRATION

The FDF representatives listed in this clause are the only individuals authorized to bind FDF contractually in performance of the work under this contract:

Jennifer K. Waters	Contract Administrator
Jack Hott	Manager, Acquisitions
Edward J. Green	Director, Contracts and Asset Management

H.2 MODIFICATION AUTHORITY

Notwithstanding any of the other clauses of this contract, the individuals identified above (H.1) shall be the only individuals authorized to:

- A. Accept nonconforming work;
- B. Waive any requirement of this contract;
- C. Modify any term or condition of this contract; or
- D. Modify or change the price of this contract.

H.3 NOTIFICATION OF DEBARMENT/SUSPENSION STATUS

The Seller shall provide immediate notice to the FDF Contract Administrator in the event of being suspended, debarred or declared ineligible by either the Department of Energy (DOE) or the General Services Administration (GSA) or upon receipt of a notice of proposed debarment from either agency during performance of this contract.

H.4 TECHNICAL DIRECTION

- A. Performance of the work under this contract shall be subject to the technical direction of the cognizant FDF Technical Representative. The term "technical direction" is defined to include, without limitation:
 - 1. Directions to the Seller which redirect the contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the Statement of Work (SOW).
 - 2. Provision of written information to the Seller which assists in the interpretations of drawings, specifications, or technical portions of the work description.
 - 3. Review and, where required by the contract, approve technical reports, drawings, specifications and technical information to be delivered by the Seller to FDF under this contract.
- B. Technical direction must be within the SOW stated in this contract. The cognizant

FDF Technical Representative does not have the authority to, and shall not, issue any technical directions which:

1. Constitute an assignment of additional work outside the SOW of this contract;
 2. Constitute a change as defined in the FDF General Provision entitled "Changes";
 3. In any manner causes an increase or decrease in the total estimated contract price or the time required for the contract and/or performance;
 4. Changes any of the expressed terms, conditions or specifications of this contract;
 5. Interferes with the Seller's right to perform the terms and conditions of this contract.
- C. All technical direction shall be issued in writing by the cognizant FDF Technical Representative.
- D. The Seller shall proceed promptly with the performance of technical directions duly issued by the FDF Technical Representative in the manner prescribed by this article and within the FDF Technical Representative's authority under the provisions of this clause. If, in the opinion of the Seller, any instruction or direction by the FDF Technical Representative falls within one of the categories defined in B.1. through B.5. above, the Seller shall not proceed but shall notify the FDF Contract Administrator in writing within five (5) working days of any such instruction or direction and shall request the FDF Contract Administrator to modify the contract. Upon receiving the written notification from the Seller, the FDF Contract Administrator shall:
1. Advise the Seller in writing within thirty (30) working days after receipt of the Seller's letter that the technical direction is within the scope of this contract and does not constitute a change under the FDF General Provision entitled "Changes" of this contract;
 2. Advise the Seller in writing within thirty (30) working days after receipt of the Seller's letter not to perform under the direction and to cancel the direction; or
 3. Advise the Seller in writing within a reasonable time that FDF will issue a written change order.
- E. Failure of the Seller and the FDF Contract Administrator to agree that the technical direction is within the scope of the contract, or failure to agree upon the contract action to be taken with respect thereto shall be subject to the FDF General Provision entitled "Disputes."

H.5 FDF WORKING DAYS

FDF's typical working days are Mondays through Fridays, excluding holidays. The dates specified below are FDF designated holidays. The Seller shall not deliver nor perform work at an FDF location on these designated holidays, unless previous written approval has been obtained from the FDF Contract Administrator. The Seller shall contact the FDF Contract Administrator when an FDF specified holiday conflicts with the delivery schedule specified within this contract. Any costs resulting from an attempted delivery of items or attempted performance of services on an FDF holiday will be the sole responsibility of the Seller for payment.

New Year's Day	President's Day	Good Friday
Memorial Day	Independence Day	Labor Day
Veteran's Day	Thanksgiving Day	Day after Thanksgiving Day
Christmas Eve	Christmas Day	

If a holiday falls on a Sunday, FDF observes the following Monday as the holiday.

H.6 ASSIGNMENT OF FORMER FDF EMPLOYEES FOR CONTRACT WORK

- A. The Seller shall not direct charge any costs to this contract arising from work or tasks performed by any former FDF employee who was separated voluntarily from FDF pursuant to the FY 1995 Fernald Environmental Management Project (FEMP) Work Force Restructuring Plan for a period of five years from the effective date of former employees' retirement or voluntary separation.
- B. The Seller shall provide written certification of compliance with the provisions of this clause upon request of FDF.
- C. If the Seller fails to comply with the provisions of this clause, this contract may be terminated for default in accordance with the FDF General Provision entitled "Default."
- D. The Seller shall insert the provisions of this clause, including this paragraph (d) in all contracts hereunder.

H.7 EXERCISE OF OPTIONS

FDF may require continued performance of any services within the limits and at the rates or prices specified herein. An option may be exercised by a unilateral modification to this contract prior to the end of this contract's term. If FDF exercises an option, the extended contract shall be considered to include this option provision.

H.8 NAME CHANGE

As of August 28, 1996, the Fernald Environmental Restoration Management Corporation (FERMCO) changed its name to Fluor Daniel Fernald, Inc. (FDF). All references herein to FERMCO are understood to refer to the same corporation whose name is now FDF. Similarly, any references to FERMCO in correspondence, memoranda or other writings

arising under, relating to, or otherwise required by any provision of this contract will be understood to refer to FDF as one and the same corporation.

SECTION I - GENERAL PROVISIONS

FLUOR DANIEL FERNALD, INC

GENERAL PROVISIONS FOR COMMERCIAL ITEMS

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1.0 INSPECTION/ACCEPTANCE	

The Seller shall only tender for acceptance those items or services that conform to the requirements of this

contract. Fluor Daniel Fernald, Inc. (FDF) reserves the right to inspect or test any supplies or services that have been tendered for acceptance. FDF may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. Unless otherwise specified in the contract, acceptance occurs when FDF takes possession of the items of supply tendered or when it approves of services performed.

2.0 ASSIGNMENT

Neither this contract nor any portion hereof shall be assigned or delegated without FDF's prior written consent and any such assignment or delegations shall be void. FDF reserves the right to assign this contract to DOE or its designee, and in case of such assignment and notice thereof to the Seller, FDF shall have no further responsibility, hereunder.

3.0. CHANGES

Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

4.0 DISPUTES

(a) All disputes arising under or relating to this contract shall be resolved pursuant to the procedures of this clause. Any claim for the payment of a sum certain or other relief arising under or relating to this contract shall be made in writing by the claiming party to the other. Claims shall be subject to a written decision by the party against whom the claim is made within a reasonable time of submission. The Seller agrees to continue to perform this contract pending final resolution of any claims. The Seller shall have no right to stop work or otherwise fail to perform this contract in spite of pending claims and limits its rights to relief to equitable adjustment of the contract price and/or schedule. Negotiated resolution of all claims shall be memorialized in contract modifications. In the event the parties are unable to resolve any claims between them, the parties agree that in any court of competent jurisdiction to which the parties or either or them may resort for resolution the matter, such matter will be tried without jury and on the written record as established through the procedures set forth herein. Provided, however, either party may by prior written exception except from trial on the written record any matter of fact which that party alleges is relevant and material to the claim and is in

dispute between the parties. FDF shall not be liable for, and the Seller waives any claim or potential claim of the Seller which was not reported by the Seller in accordance with the provisions of this clause prior to final payment. The Seller shall not be liable for, and FDF waives any claim or potential claim of FDF which was not made by FDF in accordance with the provisions of this clause prior to acceptance of the items of supply or service of this contract, except for such claims as FDF may have pursuant to any warranties applicable to this contract.

(b) Irrespective of the place of performance, this contract will be construed and interpreted according to the Federal law of Government contracts as enunciated and applied by Federal Courts, Boards of Contract Appeals and quasi-judicial agencies of the Federal Government. To the extent that law is not dispositive of any issue arising under or relating to this contract, the law of the state of Ohio shall apply. In the event either party hereto files suit on account of any issue arising under or relating to this contract, each party consents to that action being filed in the court of competent jurisdiction in and for Hamilton County, Ohio.

5.0 STOP-WORK ORDER

(a) FDF may, at any time, by written order to the Seller, require the Seller to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Seller, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Seller shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work order is delivered to the Seller, or within any extension of that period to which the parties shall have agreed, FDF shall either

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Termination for Default, or the Termination for Convenience of FDF, clauses of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Seller shall resume work. FDF shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if --

(1) The stop-work order results in an increase in the time required for, or in the Seller's cost properly allocable to, the performance of any part of this contract; and

(2) The Seller asserts its right to the adjustment within 30 days after the end of the period of

work stoppage; provided, that, if FDF decides the facts justify the action, FDF may receive and act upon a proposal submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of FDF, FDF shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, FDF shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

6.0 EXCUSABLE DELAYS

The Seller shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Seller and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Seller shall notify FDF in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to FDF of the cessation of such occurrence.

7.0 INVOICE

The Seller shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include --

(a) Name and address of the Seller;

(b) Invoice date;

(c) Contract number, contract line item number, if applicable, and the order number, if applicable;

(d) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(e) Shipping number and date of shipment including the bill of lading number and weight of shipment, if shipped on FDF's bill of lading;

(f) Terms of any prompt payment discount offered;

(g) Name and address of official to whom payment is to be sent; and

(h) Name, title and phone number of person to be notified in event of defective invoice.

8.0 PATENT INDEMNITY

The Seller shall indemnify FDF, its parent, affiliates, subsidiaries and their officers, directors, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Seller is reasonably notified of such claims and proceedings.

9.0 PAYMENT

Payment shall be made for items accepted by FDF that have been delivered to the delivery destination(s) set forth in this contract. FDF will make payment within thirty (30) days of invoice receipt. Payments under this contract may be made either by check, electronic funds transfer, or other automated means at the option of FDF. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

10.0 RISK OF LOSS

Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Seller until, and shall pass to FDF upon:

- (a) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
- (b) Delivery of the supplies to FDF at the destination specified in the contract, if transportation is f.o.b. destination.

11.0 TAXES

The contract price includes all applicable Federal, State, and local taxes and duties.

12.0 TERMINATION FOR CONVENIENCE OF FDF

FDF reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Seller shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Seller shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Seller can demonstrate to the satisfaction of FDF using its standard record keeping system, have resulted from the termination. The Seller shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give FDF any right to audit the Seller's records. The Seller shall not be paid for any work performed or costs incurred which reasonably could have

been avoided.

13.0 TERMINATION FOR DEFAULT

FDF may terminate this contract, or any part hereof, for cause in the event of any default by the Seller, or if the Seller fails to comply with any contract terms and conditions, or fails to provide FDF, upon request, with adequate assurances of future performance. In the event of termination for cause, FDF shall not be liable to the Seller for any amount for supplies or services not accepted, and the Seller shall be liable to FDF for any and all rights and remedies provided by law. If it is determined that FDF improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

14.0 TITLE

Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where FDF takes physical possession.

15.0 WARRANTY

The Seller warrants and implies that the items delivered hereunder are merchantable and fit for use for any particular purpose described in this contract. In the event, as part of the price of the items and/or services contracted for hereby, the Seller provides warranties other than as stated above, Seller shall warrant the items and/or services according to those terms and conditions as well as those stated herein.

16.0 LIMITATION OF LIABILITY

Except as otherwise provided by an express or implied warranty, the Seller will not be liable to FDF for consequential damages resulting from any defect or deficiencies in accepted items.

17.0 OTHER COMPLIANCES

The Seller shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

18.0 COMPLIANCE WITH LAWS UNIQUE TO GOVERNMENT CONTRACTS AND SUBCONTRACTS

The Seller acknowledges that work performed under this contract is done as work subcontracted by FDF under contract to the U.S. Department of Energy. The Seller agrees to comply with FAR 52.222-26, Equal Opportunity (E.O. 11246); FAR 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. § 4212(a)); and FAR 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. § 793).

19.0 ORDER OF PRECEDENCE

Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

- (a) the schedule of supplies/services;
- (b) the Assignment, Disputes, Payment, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts and Subcontracts paragraphs of these General Provisions;
- (c) addenda to this solicitation or contract, including any license agreements for computer software;
- (d) solicitation provisions if this is a solicitation;
- (e) other paragraphs of these General Provisions;
- (f) other documents, exhibits, and attachments;
and
- (g) the specification.

SECTION J - LIST OF ATTACHMENTS

ATTACHMENT I -Agreement to Contract Terms and Conditions/General Provisions



**AGREEMENT TO CONTRACT
TERMS AND CONDITIONS/GENERAL PROVISIONS**

- ☐ This proposal in response to RFP No. _____ is based on full acceptance of the General Provisions, Section I. (This block must be checked. FDF will not entertain any exceptions to the Section I, General Provisions.)
- ☐ All exceptions to provisions other than the General Provisions of this RFP are delineated and attached to this form.

Unless noted on the attachment, all other terms and conditions are accepted by the undersigned.

(Signature)

(Date)

(Company)

SECTION K - REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

ATTACHMENT I - FDF Representations, Certifications and Other Statements of Bidders/Offerors, Supply/Services Estimated Greater Than \$25,000, Form No. FS-F-4107, M-52B (Rev. 7/19/95).

**FERNALD ENVIRONMENTAL RESTORATION MANAGEMENT CORPORATION
REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS
OF BIDDERS/OFFERORS
SOLICITATION NO. _____**

1. CONTINGENT FEE REPRESENTATION AND AGREEMENT (APR 1984) (FAR 52.203-4)

(a) Representation. The Offeror represents that, except for full-time bona fide employees working solely for the Offeror, the Offeror [Note: The Offeror must check the appropriate boxes. For interpretation of the representation, including the term "bona fide employee," see Subpart 3.4 of the Federal Acquisition Regulation.]

(1) ☐ has, ☐ has not employed or retained any person or company to solicit or obtain this contract; and

(2) ☐ has, ☐ has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(b) Agreement. The Offeror agrees to provide information relating to the above Representation as requested by FERMCO and, when subparagraph (a)(1) or (a)(2) is answered affirmatively, to promptly submit to FERMCO --

(1) A completed Standard Form 119, Statement of Contingent or Other Fees, (SF 119); or (2) A signed statement indicating that the SF 119 was previously submitted to FERMCO, including the date and applicable solicitation or contract number, and representing that the prior SF119 applies to this bid/offer.

2. TAXPAYER IDENTIFICATION (SEP 1989) (FAR 52.204-3)

(a) Definitions.

"Common parent," as used in this solicitation provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the Offeror is a member.

"Corporate status," as used in this solicitation provision, means a designation as to whether the Offeror is a corporate entity, an unincorporated entity (e.g., sole proprietorship or partnership), or a corporation providing medical and health care services.

"Taxpayer identification Number (TIN)," as used in this solicitation provision, means the number required by the IRS to be used by the Offeror in reporting income tax and other returns.

(b) The Offeror is required to submit the information required in paragraphs (c) through (e) of this solicitation provision in order to comply with reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M and implementing regulations issued by the Internal Revenue Service (IRS). If the resulting contract is subject to reporting requirements described in 4.902(a), the failure or refusal by the Offeror to furnish the information may result in a 20 percent reduction of payments otherwise due under the contract.

(c) Taxpayer Identification Number (TIN).

☐ TIN: _____

☐ TIN has been applied for

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of a Federal, state, or local government;

☐ Other. State basis _____.

(d) Corporate Status.

() Corporation providing medical and health care services, or engaged in the billing and collecting of payments for such services
() Other corporate entity
() Not a corporate entity
() Sole proprietorship
() Partnership
() Hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR 501(a).

(e) Common Parent.

() Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this clause.

() Name and TIN of common parent:

Name _____

TIN _____

3. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (MAY1989) (FAR 52.209-5)

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that --

(i) The Offeror and/or any of its Principals --

(A) Are [] are not [] presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have [] have not [], within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

(C) Are [] are not [] presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

(ii) The Offeror has [] has not [], within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals, " for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) The Offeror shall provide immediate written notice to FERMCO if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by FERMCO may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The

knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to the other remedies available to FERMCO or the Government, FERMCO may terminate the contract resulting from this solicitation for default.

4. SMALL BUSINESS CONCERN REPRESENTATIONS (JAN 1991) (FAR 52.219-1)

(a) Representation. The Offeror represents and certifies as part of its offer that it [] is, [] is not a small business concern and that [] all, [] not all end items to be furnished will be manufactured or produced by a small business concern in the United States, its territories or possessions, Puerto Rico, or the Trust Territory of the Pacific Islands.

(b) Definition. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in this solicitation.

(c) Notice. Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to sections 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall (1) be punished by imposition of a fine, imprisonment, or both; (2) be subject to administrative remedies, including suspension and debarment; and (3) be ineligible for participation in programs conducted under the authority of the Act.

5. SMALL DISADVANTAGED BUSINESS CONCERN REPRESENTATION (FEB 1990) (FAR 52.219-2)

(a) Representation. The Offeror represents that it [] is, [] is not a small disadvantaged business concern.

(b) Definitions.

"Asian Pacific Americans," as used in this provision, means United States citizens whose origins are in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territory of the Pacific Islands (Republic of Palau), the Northern Mariana Islands, Laos, Kampuchea (Cambodia), Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, or the Federated States of Micronesia.

"Indian tribe," as used in this provision, means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native Corporation as defined in 13 CFR 124.100 which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians, or which is recognized as such by the State in which such tribe, band, nation, group, or community resides.

"Native Americans," as used in this provision, means American Indians, Eskimos, Aleuts, and Native Hawaiians.

"Native Hawaiian Organization," as used in this provision, means any community service organization serving Native Hawaiians in, and chartered as a not-for-profit organization by, the State of Hawaii, which is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

"Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.

"Small disadvantaged business concern," as used in this provision, means a small business concern that (a) is at least 51 percent unconditionally owned by one or more individuals who are both socially and

economically disadvantaged, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals and (b) has its management and daily business controlled by one or more such individuals. This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one of these entities which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization, and which meets the requirements of 13 CFR part 124.

"Subcontinent Asian Americans", as used in this provision, means United States citizens whose origins are in India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal.

(c) Qualified groups. The Offeror shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, and other individuals found to be qualified by SBA under 13 CFR 124. The Offeror shall presume that socially and economically disadvantaged entities also include Indian tribes and Native Hawaiian Organizations.

6. WOMEN-OWNED SMALL BUSINESS REPRESENTATION (APR 1984) (FAR 52.219-3)

(a) Representation. The Offeror represents that it [] is, [] is not a women-owned small business concern.

(b) Definitions.

"Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.

"Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

7. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (APR 1984) (FAR 52.222-22)

The Offeror represents that --

(a) It [] has, [] has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114;

(b) It [] has, [] has not, filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

8. PLACE OF PERFORMANCE

(a) The Bidder/Offeror, in the performance of any contract resulting from this solicitation, [] intends, [] does not intend [check applicable box] to use one or more plants or facilities located at a different address from the address of the Offeror as indicated in this offer.

(b) If the Bidder/Offeror "intends" in paragraph (a) above, it shall insert in the spaces provided below the required information:

Name and Address of
Place of Performance
(Street Address, City,
County, State, Zip code)

Owner and Operator of the
Plant or Facility if Other
than Bidder/Offeror

9. **TYPE OF BUSINESS ORGANIZATION**

The Bidder/Offeror, by checking the applicable box, represents that --

(a) It operates as ☐ a corporation incorporated under the laws of the State of _____, ☐ an individual, ☐ a partnership, ☐ a nonprofit organization, or ☐ a joint venture; or

(b) If the Offeror/Bidder is a foreign entity, it operates as ☐ an individual, ☐ a partnership, ☐ a nonprofit organization, ☐ a joint venture, or ☐ a corporation, registered for business in country.

10. **BUY AMERICAN CERTIFICATE (DEC 1989) (FAR 52.225-1)**

(NOTE: Applicable for non-service bids/offers)

The Offeror certifies that each end product, except those listed below, is a domestic end product (as defined in the clause entitled "Buy American Act-- Supplies"), and that components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

Excluded End Products

Country of Origin

(List as necessary)

Offerors may obtain from FERMCO lists of articles, materials, and supplies exempted from the Buy American Act.

11. **ORGANIZATIONAL CONFLICT OF INTEREST - DISCLOSURE OR REPRESENTATION**

(NOTE: Applicable to offers for (a) evaluation services or activities; (b) technical consulting and management support activities and professional services; (c) research and development conducted pursuant to the authority of the Federal Energy Administration Act of 1974 (Pub. L. 93-275, as amended); and (d) other contractual situations where special organizational conflicts of interest provisions are noted in the solicitation and are included in the resulting contract)

It is FERMCO's and the Department of Energy's policy to avoid situations which place an Offeror in a position where its judgment may be biased because of any past, present, or currently planned interest, financial or otherwise, the Offeror may have which relates to the work to be performed pursuant to this solicitation or

where the Offeror's performance of such work may provide it with an unfair competitive advantage. (As used herein, "Offeror" means the proposer or any of its affiliates or proposed consultants or subcontractors of any tier.) Therefore:

(a) The Offeror shall provide a statement which describes in a concise manner all relevant facts concerning any past, present or currently planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed hereunder and bearing on whether the Offeror has a possible organizational conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice, or (2) being given an unfair competitive advantage. The Offeror may also provide relevant facts that show how its organizational structure and/or management systems limit its knowledge of possible organizational conflicts of interest relating to other divisions or sections of the organization and how that structure or system would avoid or mitigate such organizational conflict.

(b) In the absence of any relevant interests referred to above, the Offeror shall submit a statement certifying that to its best knowledge and belief no such facts exist relevant to possible organizational conflicts of interest. Proposed consultants and subcontractors are responsible for submitting information and may submit it directly to FERMCO.

(c) FERMCO will review the statement submitted and may require additional relevant information from the Offeror. All such information, and any other relevant information known to FERMCO, may be submitted to the Department of Energy (DOE) who will determine whether an award to the Offeror would create an organizational conflict of interest. If such an organizational conflict of interest is found to exist, DOE may (1) impose appropriate conditions which avoid such conflict, (2) disqualify the Offeror, or (3) determine that it is otherwise in the best interest of the Government to contract with the Offeror by including appropriate conditions mitigating such conflict in the contract awarded.

(d) The refusal to provide the disclosure or representation and any additional information as required shall result in disqualification of the Offeror for award. The nondisclosure or misrepresentation of any relevant interest may also result in the disqualification of the Offeror for award, or if such nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated for default. The Offeror may also be disqualified from subsequent related FERMCO contracts, and be subject to such other remedial action as may be permitted or provided by law or in the resulting contract. The attention of the Offeror in complying with this provision is directed to 18 U.S.C. 1001.

(e) Depending on the nature of the contract activities, the Offeror may, because of possible organizational conflicts of interest, propose to exclude specific kinds of work from the statement, unless the solicitation specifically prohibits such exclusion. Any such proposed exclusion by an Offeror shall be considered by FERMCO in the evaluation for proposals, and if the DOE considers the proposed excluded work to be an essential or integral part of the required work, the proposal may be rejected as unacceptable.

(f) No award shall be made until the disclosure or representation has been evaluated by the Government. Failure to provide the disclosure or representation will be deemed to be a minor informality (FAR 14.405) and the Offeror or contractor shall be required to promptly correct the omission.

NOTE: OFFEROR REPRESENTATIONS AND DISCLOSURE STATEMENTS AND ANY OTHER INFORMATION TO BE SUBMITTED TO FERMCO BY THE OFFEROR PERTAINING TO ORGANIZATIONAL CONFLICTS OF INTEREST ARE CONTAINED IN ATTACHMENT 1 OF THIS FORM.

**12. WALSH-HEALEY PUBLIC CONTRACTS ACT REPRESENTATIONS (APR 1984)
(FAR 52.222-19)**

The Offeror represents as a part of this offer that the Offeror is [] or is not [] a regular dealer in, or is

☐ or is not ☐ a manufacturer of, the materials, supplies, articles, or equipment to be manufactured or used in performance of the contract.

13. AFFIRMATIVE ACTION COMPLIANCE (APR 1984) (FAR 52.222-25)

The Offeror represents that (a) it ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (b) it ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

14. ROYALTY PAYMENTS (APR 1984) (DEAR 952-227-81)

In order that FERMCO may be informed regarding royalty payments to be made by a Seller in connection with any acquisition, construction, or operation where the amount of the royalty payment is reflected in the contract price, or is to be reimbursed by FERMCO, check one of the following:

☐ The Contract price includes no amount representing the payment of royalty by the Offeror directly to others in connection with the performance of the contract.

☐ The contract price includes an amount for royalty payment expected to be made in connection with the proposed award. The Offeror shall set forth below: (1) the amount of each payment, (2) the names of the licensor, (3) either the patent numbers involved or such other information as will permit identification of the patents and patent applications and the basis on which royalties will be paid.

15. CERTIFICATION OF NONSEGREGATED FACILITIES (APR 1984) (FAR 52.222-21)

(a) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(b) By the submission of this offer, the Offeror certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.

(c) The Offeror further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will --

- (1) Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;
- (2) Retain the certifications in the files; and
- (3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods);

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS
OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

16. **CERTIFICATION REGARDING WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (AUG 1992) (DEAR 970.5204-57)**

(NOTE: Applicable to bids/offers, exceeding \$25,000, requiring work performance at the Fernald Environmental Remediation Project (FEMP) and other DOE owned or controlled locations under the Prime Contract No. DE-AC24-92OR21972)

(a) Any contract awarded as a result of this solicitation will be subject to the policies criteria, and procedures of 10 CFR Part 707, Workplace Substance Abuse Programs to DOE sites.

(b) The Offeror/Bidder certifies and agrees that it will provide to FERMCO, within 30 days after notification of selection for award, or award of a contract, whichever occurs first, pursuant to this solicitation, its written workplace substance abuse program consistent with the requirements of 10 CFR Part 707.

(c) Failure of the Offeror/Bidder to certify in accordance with paragraph (b) of this provision, renders the Offeror unqualified and ineligible for award.

(d) In addition to other remedies available to FERMCO and the Government, this certification concerns a matter subject to prosecution under Title 18, U.S.C. Section 101.

Signature of Officer/Employee Certifying Regarding
the Offeror's Workplace Substance Abuse Program/Date

Typed Name and Title of Signatory

17. **CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985) (FAR 52.203-2)**

(Note: Applicable to firm-fixed-price bids/offers or fixed-price bids/offers with economic price adjustment greater than \$25,000)

(a)The Offeror certifies that --

(1) The prices in this offer have been arrived at independently, without, for the purpose for restricting competition, any consultation, communication, or agreement with any other Offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

(1) Is the person in the Offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a) (3) above_____ [insert full name of person(s) in the Offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the Offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the Offeror deletes or modifies subparagraph (a)(2) above, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

18. JEWEL BEARINGS AND RELATED ITEMS CERTIFICATE (APR 1984) (FAR 52.208-2)

(NOTE: Applicable to bids/offers exceeding \$25,000)

(a) This is to certify that --

(1) Jewel bearings and/or related items, as defined in the Required Sources for Jewel Bearings and Related items clause, will be incorporated into one or more items/will not be incorporated into any item [delete one] covered by this offer;

(2) Any jewel bearings required (or an equal quantity of the same type, size and tolerances) will be ordered from the William Langer Plant, Rolla, North Dakota 58367, as provided in the Required Sources for Jewel Bearings and Related Items clause; and

(3) Any related items required (or an equal quantity of the same type, size, and tolerances) will be acquired from domestic manufacturers, including the Plant, if the items can be obtained from those sources.

(b) Attached to this certificate are estimates of the quantity, type, and size (including tolerances) of the jewel bearings and related items required, and identification of the components, subassemblies, or parts that require jewel bearings or related items.

Date of Execution_____

Solicitation No._____

Name_____

Title_____

Firm_____

Address_____

19. CERTIFICATION OF COMMERCIAL PRICING FOR PARTS OR COMPONENTS (AUG 1991) (FAR 52.215-32)

(NOTE: Applicable to bids/offers exceeding \$25,000)

(a) Definitions.

"Lowest commercial price," as used in this clause, means the lowest price at which a sale was made to the general public of a particular part or component. The term does not include the price at which a sale was

made to --

- (1) Any agency of the United States;
- (2) Customers located outside the United States; or
- (3) A subsidiary, affiliate, or parent business organization of the contractor, or any other branch of the same business entity.

(i) For resale after such customer performs a service or function in connection with such part or component that increases the cost of the part or component unless the agency procuring the part or component can demonstrate that the agency is procuring the part or component before such service or function has been performed by any such customer (see Federal Acquisition Regulation (FAR) 15.813-6(c)); or

(ii) At a price that, for the purpose of making a donation, has been substantially discounted below the fair market value or regular price of such part of component.

"Part or component," as used in this clause, means any individual part, component, subassembly, assembly or subsystem integral to a major system, and other property which may be replaced during the service life of the system, and includes spare parts and replenishment spare parts, but does not include packaging or labeling associated with shipment or identification of a part or component.

(b) Submission requirements. The Offeror shall execute and submit to FERMCO the following certificate with any offer as required by FAR 15.813-4 when requested by FERMCO:

CERTIFICATE OF COMMERCIAL PRICING FOR PARTS OR COMPONENTS

(1) Unless justified in subparagraph (b)(2) of this clause, by submission of this offer/proposal, the Offeror certifies that, to the best of its knowledge and belief, the prices offered for those parts or components (whether or not separately identified) that the Offeror offers for sale are no higher than the lowest commercial price at which such items were sold to the public during the most recent regular monthly, quarterly, or other period for which sales data are reasonably available, provided that in no event shall this period be less than 1-month in duration.

(2) All parts or components for which prices offered are higher than the lowest commercial price referred to in subparagraph (b)(1) of this certificate are identified below (including the amounts by which such offered prices are higher) and a written justification for the differences is attached (list as necessary):

Part or Component	Price Difference
_____	_____
_____	_____
_____	_____
_____	_____

Offer/Proposal No. _____
Time period for sales data _____
Firm _____
Typed name and signature _____
Title _____
Date _____

(End of Certificate)

(c) Audit. FERMCO or representatives of the Government shall have the right to examine and audit all directly pertinent records of sales and related documents, including contract terms and conditions, necessary to verify the validity of any certificate executed in accordance with paragraph (b) of this clause. The Offeror shall make those records, books, data, and documents available for examination, audit, or reproduction until 3 years after the date the certificate set forth in paragraph (b) of this clause is executed. Nothing contained in this clause shall require the submission of cost or pricing data not otherwise required by law or regulation.

(d) Price reduction. If any price, including profit or fee negotiated in connection with this contract, or any cost reimbursable under this contract, has increased because the certification in subparagraph (b)(1) of the certificate or the information provided as justification in subparagraph (b)(2) of the certificate was inaccurate, incomplete, or misleading, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

20. CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991) (FAR 52.203-11)

(NOTE: Applicable to bids/offers exceeding \$100,000)

(a) The definitions and prohibitions contained in the clause, at Federal Acquisition Regulation (FAR) 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The Offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the Offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to FERMCO; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess for \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by Section 1352, Title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000, for each such failure.

21. CLEAN AIR AND WATER CERTIFICATION (APR 1984) (FAR 52.223-1)

(NOTE: Applicable for bids/offers exceeding \$100,000, or when indefinite quantity contracts orders exceed \$100,000 in any year, or a facility has been subject to a conviction under the applicable portion of the Air Act (42 U.S.C. 7413(c)(1)) or Water Act (33 U.S.C. 1319 (c)) and is listed by EPA as a violating facility)

The Offeror certifies that --

(a) Any facility to be used in the performance of this proposed contract is [], is not [] listed on the Environmental Protection Agency (EPA) List of Violating Facilities;

(b) The Offeror will immediately notify FERMCO, before award, of the receipt of any communication from the Administrator, or a designee, of the EPA, indicating that any facility that the Offeror proposes to use

for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and

(c) The Offeror will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

**22. COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (AUG 1992)
(FAR 52.230-1)**

(Note: This notice does not apply to small businesses or foreign governments. This notice is in four parts, identified by Roman numerals I through IV.)

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

I. DISCLOSURE STATEMENT -- COST ACCOUNTING PRACTICES AND CERTIFICATION

(a) Any contract in excess of \$500,000 resulting from this solicitation, except contracts in which the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation, will be subject to the requirements of 48 CFR, Parts 9903 and 9904, except for those contracts which are exempt as specified in 48 CFR, Subpart 9903.201-1.

(b) Any Offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR, Parts 9903 and 9904 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR, Subpart 9903.202. The Disclosure Statement must be submitted as a part of the Offeror's proposal under this solicitation unless the Offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the Offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

CAUTION: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

(c) Check the appropriate box below:

☐ (1) Certificate of Concurrent Submission of Disclosure Statement.

The Offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows: (i) original and one copy to the cognizant Administrative Contracting Officer (ACO), and (ii) one copy to the cognizant contract auditor. (Disclosure must be on Form No. CASB DS-1. Forms may be obtained from the cognizant ACO.)

Date of Disclosure Statement: _____

Name and Address of Cognizant ACO where filed: _____

The Offeror further certifies that practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

☐ (2) Certificate of Previously Submitted Disclosure Statement.

The Offeror hereby certifies that Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____

Name and Address of Cognizant ACO where filed: _____

The Offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable disclosure statement.

☐ (3) Certificate of Monetary Exemption. The Offeror, hereby certifies that the Offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling more than \$10 million in the cost accounting period immediately preceding the period in which this proposal was submitted. The Offeror further certifies that if such status changes before an award resulting from this proposal, the Offeror will advise FERMCO immediately.

☐ (4) Certificate of Interim Exemption.

The Offeror hereby certifies that (i) the Offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR, Subpart 9903.202-1, the Offeror is not yet required to submit a Disclosure Statement. The Offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of the period, the Offeror will immediately submit a revised certificate to FERMCO, in the form specified under subparagraphs (c)(1) or (c)(2) of Part 1 of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

CAUTION: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$10 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II COST ACCOUNTING STANDARDS--EXEMPTION FOR CONTRACTS OF \$500,000 OR LESS

If this proposal is expected to result in the award of a contract of \$500,000 or less, the Offeror shall indicate whether the exemption below is claimed. Failure to check the box below shall mean that the resultant contract is subject to CAS requirements or that the Offeror elects to comply with such requirements.

☐ The Offeror hereby claims an exemption from the CAS requirements under the provisions of 48 CFR, Subpart 9903.201-1(b)(2).

III. COST ACCOUNTING STANDARDS--ELIGIBILITY FOR MODIFIED CONTRACT COVERAGE

If the Offeror is eligible to use the modified provisions of 48 CFR, Subpart 9903.201-2(b) and elects to do so, the Offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

☐ The Offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR, Subpart 9903.201-2(b) and certifies that the Offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because (i) during the cost accounting period immediately preceding the period in which this proposal was submitted, the Offeror received less than \$10 million in awards of CAS-covered prime contracts and subcontracts, and (ii) the sum of such awards equaled less than 10 percent of total sales during that cost accounting period. The Offeror further certifies that if such status changes before an award resulting from this proposal, the Offeror will advise FERMCO immediately.

CAUTION: An Offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of CAS-covered contract of \$10 million or more or if, during its current cost accounting period, the Offeror has been awarded a single CAS-covered prime contract or subcontract of \$10 million or more.

IV. ADDITIONAL COST ACCOUNTING STANDARDS APPLICABLE TO EXISTING CONTRACTS

The Offeror shall indicate below whether award of the contemplated contract would, in accordance with subparagraph (a)(3) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

[] YES [] NO

23. AUTHORIZED NEGOTIATORS (APR 1984) (FAR 52.215-11)

(NOTE: Applies to all bids/offers)

The Offeror or quoter represents that the following persons are authorized to negotiate on its behalf with FERMCO in connection with this request for proposals or quotations: [list names, titles, and telephone numbers of the authorized negotiators].

24. SIGNATURE/CERTIFICATION

(NOTE: applies to all bids/offers)

By signing below, the Bidder/Offeror certifies, under penalty of law, that the representations and certifications are accurate, current and complete. The Bidder/Offeror further certifies that it will notify FERMCO of any changes to these representations and certifications.

Signature of Officer of Employee Responsible
for the Bid/Offer

Date of Execution

Typed Name and Title of the Officer or Employee
Responsible for the Bid/Offer

Name of Organization

Address of Organization

SOLICITATION NUMBER

SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO BIDDERS/OFFERORS

L.1 FORMAL COMMUNICATIONS

Formal communications such as Requests for Clarification and/or information concerning this solicitation should be submitted in writing to the address below:

Fluor Daniel Fernald
175 Tri-County Parkway
Cincinnati, OH 45246
Attn: Jennifer K. Waters

L.2 EXPLANATION TO PROSPECTIVE OFFERORS

Any explanation desired by prospective offerors regarding the meaning or interpretation of the solicitation, specifications, etc. shall be transmitted in writing. Any information concerning this solicitation or request for clarification will not be provided in response to telephone calls as oral explanations or instructions given to an Offeror prior to the award of the proposed contract will not be binding. FDF will address requests received by facsimile that are sent to the attention of Jennifer K. Waters att (513) 648-6380. All requests must be confirmed in writing to the above address. The format of the questions shall follow the sequential numbering of this solicitation's sections and paragraphs and shall state the major paragraph heading.

L.3 AMENDMENTS TO SOLICITATIONS

If this solicitation is amended, then all terms and conditions which are not modified remain unchanged. Offerors shall acknowledge receipt of any amendments to this solicitation by either (1) signing and returning the amendment, (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer, if provided, (3) by letter or telegram, (4) facsimile, or in a proposal transmittal letter. FDF must receive the acknowledgment by the time specified for receipt of offers. FDF reserves the right to update this solicitation by amendment(s) up to the award date.

L.4 PERIOD OF ACCEPTANCE

In compliance with this FDF Request for Proposal (RFP), the Offeror agrees, if FDF accepts its proposal within 90 calendar days from the date specified in the solicitation for receipt of offers, to furnish any or all items on which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in Section B. PROPOSALS OFFERING LESS THAN 90 CALENDAR DAYS MAY BE REJECTED.

L.5 SIC CODE AND SMALL BUSINESS SIZE STANDARD

- A.** The standard industrial classification (SIC) code for this acquisition is 7389.
- B.**
 - 1.** The small business size standard is \$3.5 million in accordance with Federal Acquisition Regulation (FAR) Part 19.
 - 2.** The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

L.6 NOTICE OF SMALL BUSINESS SET-ASIDE

- A.** Definition.

"Small business concern," as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.
- B.** General.
 - 1.** Offers are solicited only from small business concerns. Offers received from concerns that are not small business concerns shall be considered nonresponsive and will be rejected.
 - 2.** Any award resulting from this solicitation will be made to a small business concern.
- C.** Agreement.

A manufacturer or regular dealer submitting an offer in its own name agrees to furnish, in performing this contract, only end items manufactured or produced in the United States, its territories or possessions, Puerto Rico, or the Trust Territory of the Pacific Islands.

L.8 PREPARATION OF OFFERS

- A.** Offerors are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at the Offeror's risk.
- B.** Each Offeror shall furnish the information required by the solicitation. The Offeror shall sign the offer and print or type its name on the Schedule and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent

shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to FDF.

- C. For each item offered, Offerors shall (1) show the unit price/cost, including, unless otherwise specified, packaging, packing, and preservation and (2) enter the extended price/cost for the quantity of each item offered in the "Quantity" column of the Schedule. In case of discrepancy between a unit price/cost and an extended price/cost, the unit price/cost will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.
- D. Offers for supplies or services other than those specified will not be considered unless authorized by the solicitation.
- E. Offerors must state a definite time for delivery of supplies or for performance of services, unless otherwise specified in the solicitation.
- F. Time, if stated as a number of days, will include Saturdays, Sundays, and holidays.

L.9 PROPOSAL FORMAT AND CONTENTS

- A. Proposals shall include all data and information required by this solicitation. Offerors shall submit one (1) proposal meeting the requirements of this solicitation.
- B. Offerors shall provide a full written explanation of all exceptions taken to the specifications or data requirements, if any, by referencing the appropriate paragraph or exhibit line item number, as appropriate. Any exceptions shall be attached to Attachment I, Agreement to Contract Terms and Conditions/General Provisions, and submitted with the Offeror's proposal. If no exceptions are taken, the Offeror shall so state on Attachment I.
- C. The requirements of FDF's prime contract may necessitate that an Offeror's proposal be fully supported by cost and pricing data in accordance with Public Law 87-653, "Truth in Negotiations Act." If required, failure to provide cost and pricing information in support of the proposal as set forth herein may be sufficient cause to reject an Offeror's proposal.
- D. In the event that any cost data or supporting information described herein is deemed to be proprietary, or otherwise not available to FDF, Offerors shall provide the location of pertinent data available for assist audit by the government.

L.10 FINANCIAL STATEMENT

The Offeror shall, upon request, promptly furnish FDF with a current certified

statement of the Offeror's financial condition and such data as FDF may request with respect to the Offeror's operations. FDF will use this information to determine the Offeror's financial responsibility and ability to perform under the contract. Failure of an offeror to comply with a request for information will subject the offer to possible rejection on responsibility grounds.

L.11 TECHNICAL/MANAGEMENT PROPOSAL

- A. General.** The technical proposal should be specific, detailed, and complete to demonstrate clearly and fully that the prospective Offeror has a thorough understanding of the requirements. The technical proposal must enable FDF technical personnel to make a thorough evaluation and arrive at a sound determination as to whether or not the proposal meets the requirements of the Statement of Work. No information regarding pricing shall be provided within the technical proposal.
- B. Requirements.** The technical proposal shall contain, as a minimum, the following items in accordance with Section C, Statement of Work. These items are the basis for the technical evaluation criteria that will be used in evaluating the technical proposals.
 - 1. Marketing Plan**
 - a.** The plan shall include at least 3 forms of advertisement for proposed auctions.
 - 2. Experience**
 - b.** Documented evidence that the Offeror has performed projects similar in nature and dollar value to the requirements of this solicitation within the last two (2) years. This evidence shall include company contacts, telephone numbers, dollar value, and a brief written description of the provided product.
 - 3. Storage Facility**
 - a.** Documented evidence that the Offeror has an auction and storage facility located within a 75 mile radius of the Fernald Daniel Fernald. This evidence shall include a minimum of 20,000 square feet of enclosed warehouse storage and 5,000 square feet of secured outside storage area.

L.12 REQUIRED PRICE PROPOSAL SUBMITTALS

- A. Completed FDF Solicitation, Offer and Award Form, Form No. FS-F-4023 (09/16/94).**

- B. Completed Section B. Percentages are considered firm and fixed.
- C. Completed FDF Representations, Certifications and Other Statements of Bidders/Offerors, Supply/Services Estimated Greater Than \$25,000, Form No. FS-F-4107, M-52B (Rev. 7/19/95) of Section K.
- D. Completed Agreement to Contract Terms and Conditions/General Provisions (Attachment I of Section J), with any exceptions detailed and attached.
- E. Proof of Material and Equipment Bond of at least \$100,000.

L.13 SUBMISSION OF PROPOSALS

Proposal Due Date: Proposals must be received on or before **April 15, 1998**, at 3:00 p.m., Cincinnati time. Offers and modifications thereof shall be submitted in sealed envelopes or packages. The original proposals must be signed by a representative of the Offeror authorized to legally bind the company. Envelopes or packages containing proposals shall be marked with the solicitation number, date and hour specified for receipt of offers, and the name and address of the Offeror on the outer cover in the lower right-hand corner.

Proposals to be transmitted via regular mail and United States Postal Next Day Delivery service should be addressed as follows:

Fluor Daniel Fernald
P.O. Box 538704
Cincinnati, OH 45253
Attn: Jennifer K. Waters

Proposals to be transmitted via Federal Express or hand carried should be addressed as follows:

Fluor Daniel Fernald
175 Tri-County Parkway
Cincinnati, OH 45253
Attn: Jennifer K. Waters

DO NOT SEND REGULAR MAIL TO THIS ADDRESS. UTILIZE THE P.O. BOX ADDRESS CONTAINED WITHIN THIS SOLICITATION. FDF WILL NOT BE HELD RESPONSIBLE FOR DELIVERY OF REGULAR MAIL TO THIS ADDRESS. DO NOT SUBMIT YOUR PROPOSAL TO THE FDF CONSTRUCTION ACQUISITION DEPARTMENT'S BID BOX.

L.14 FAILURE TO SUBMIT AN OFFER

Recipients of this solicitation not responding with an offer should not return this

solicitation, unless it specifies otherwise. Instead, those firms not responding should advise FDF by letter or postcard why no offer is being submitted and whether the firm wishes to receive future solicitations for similar requirements. If a recipient does not submit an offer and does not notify FDF that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

L.15 LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF PROPOSALS

The following conditions will apply to late proposals, modifications of proposals, and withdrawals of proposals:

- A. Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it -**
 - 1. Was sent by registered or certified mail not later than the fifth (5th) calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);**
 - 2. Was sent by mail or, if authorized by the solicitation, was sent by telegram or via facsimile and it is determined by FDF that the late receipt was due solely to mishandling by FDF after receipt at the FDF installation.**
 - 3. Was sent by U. S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two (2) working days prior to the date specified for receipt of proposals. The term "working day" excludes weekends and the FDF holidays; or**
 - 4. Is the only proposal received.**
- B. Any modification of a proposal or quotation, except a modification resulting from FDF's request for "Best and Final" offer, is subject to the same conditions as in subparagraphs A.1, A.2, A.3, and A.4 above.**
- C. A modification resulting from an FDF request for "Best and Final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by FDF after receipt at the FDF installation.**
- D. The only acceptable evidence to establish the date of mailing of a late proposal or modification sent either by U. S. or Canadian Postal Service registered or certified mail is the U. S. or Canadian Postal Service Postmark both on the envelope or wrapper and on the original receipt from the U. S. or Canadian Postal Service. Both postmarks must show a legible date or the proposal, quotation, or modification shall be processed as if mailed late. "Postmark"**

means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U. S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

- E. The only acceptable evidence to establish the time of receipt at the FDF installation is the time/date stamp of that installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.
- F. The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service - Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service - Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U. S. Postal Service. "Postmark" has the same meaning as defined in Paragraph D of this article, excluding postmarks of the Canadian Postal Service. Therefore, offers should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.
- G. Notwithstanding Paragraph F above, a late modification of an otherwise successful proposal, that makes its terms more favorable to FDF, will be considered at any time it is received before award and may be accepted.
- H. Proposals may be withdrawn by written notice or telegram (including mailgram) received at any time before award. Proposals may be also withdrawn via facsimile if the request is received at any time before award. Proposals may be withdrawn in person by an offeror or an authorized representative, if the representative's identity is made known and the representative signs a receipt for the proposal before award.

L.16 OPENING OF PROPOSALS

There will be no public opening of the proposals. Offerors will be advised of award as soon as possible after source selection has been made and the consent of the Department of Energy (DOE) has been received, if required.

L.17 PROTESTS

The General Accounting Office (GAO) will not consider a protest of the award or proposed award of an agency contract except where the agency has requested in writing that the contract protest be decided by the GAO. Further, the Department of Energy (DOE) has advised FDF that the DOE will not act upon any contract protest for the award resulting from the affected solicitation. Any complaints regarding award of this solicitation should be formally filed in writing with the cognizant FDF Contract Administrator.

L.18 DISCLAIMER

This solicitation does not commit the United States Government and/or FDF to pay for any costs incurred in the preparation and submission of a proposal or for any other costs incurred prior to the execution of the contract. This solicitation shall not be construed in any manner to be an obligation on the part of the United States Government and/or FDF to enter into a contract or any other arrangement with the Offeror.

L.19 SPECIAL NOTES

Sections L and M will be physically removed from any resultant award.

SECTION M - EVALUATION FACTORS FOR AWARD**M.1 INTRODUCTION**

The evaluation of proposals and the selection of source(s) for award will be in accordance with the criteria set forth below.

M.2 BEST AND FINAL OFFERS

- A. Offerors are cautioned to review carefully all terms and conditions and specifications of this solicitation prior to the submission of proposals. FDF may award this solicitation without discussion of proposals received.
- B. Discussions may be held at the sole discretion of FDF. A complete understanding of technical requirements and all other terms and conditions of the proposed contract should exist between the Offeror and FDF at the conclusion of any such discussions. Best and Final Offers (BAFOs) will be requested upon the completion of discussions.
- C. Offerors may not submit any new or revised terms or conditions in their BAFO responses that have not been fully disclosed, discussed, and understood during discussions. Any such revisions must be substantiated and must be able to be traced back to the original proposal. Any revisions or nonconcurrence to negotiated agreement terms and conditions submitted in the BAFO may be a basis for the rejection of the Offeror's BAFO response.

M.3 BASIS FOR AWARD

- A. Selection will be made on the basis of an integrated assessment of each Offeror's proposal received in response to this solicitation and on FDF's review of each Offeror's capabilities. The responsible, responsive Offeror with the overall highest total evaluated points, price and other factors specified below considered, will receive award of any resulting contract from this solicitation.
- B. Technical Evaluation Criteria. The following technical evaluation criteria (as listed in Section L.11) shall be used to evaluate the technical proposals submitted to FDF for this solicitation. Technical merit will consist of 30 percent of the total evaluation criteria for award.
 - 1. Marketing Plan
 - 2. Experience
 - 3. Storage Facility
- C. Price Evaluation Criteria. The following price evaluation criteria shall be used to evaluate the price proposals submitted to FDF for this solicitation. Price merit will consist of 70 percent of the total evaluation criteria for award.

1. The specified unit prices provided by an Offeror for Section B, Item B.2, Price, will be used for price evaluation purposes and will be multiplied by the specified FDF quantity for proposed total number of units.
2. Should an Offeror propose the requested item(s) in different quantities than those presented in this solicitation, then the Offeror should notify the responsible FDF Contract Administrator under separate cover. All Offerors shall propose only the unit of measure specified in Section B, Item B.2, to be found responsive.

D. Multiple awards may be awarded at the sole discretion of FDF.

M.4 EVALUATION OF OPTIONS

Except when it is determined not to be in FDF's and the Government's best interests, the FDF will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of the option quantities will not obligate FDF, in any way, to exercise any option. FDF may reject an offer as nonresponsive if it is materially unbalanced as to the prices for the base requirement and the option requirements. An offer is unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

M.5 ALTERNATE AWARD PROCEDURE

Subsequent to the completion of the initial evaluation of proposals, FDF may elect to open negotiations with the best evaluated Offeror with the intent of definitizing a contract with that Offeror. If a mutually agreeable contract cannot be definitized to technical, price, and all other terms and conditions, FDF may then open negotiations with the next highest evaluated Offeror with the intent of definitizing a contract with that Offeror.